

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MALCOLM J. WILEY,

Case No. 23-CV-0470 (KMM/JFD)

Plaintiff,

v.

REPORT AND RECOMMENDATION

RAMSEY COUNTY CHIEF DEPUTY
SHERIFF and RAMSEY COUNTY
HEALTH SERVICES,

Defendants.

On May 18, 2023, this Court issued an order requiring Plaintiff Malcolm J. Wiley to file “either (1) a written confirmation that he intends to proceed in this action by suing Ramsey County Adult Detention Center (i.e. Ramsey County), based on the allegations in the present Complaint; or (2) an amended complaint.” (Dkt. No. 10 at 3.) The Court gave Mr. Wiley until June 1, 2023, to comply, failing which the Court would “recommend dismissing this action under Federal Rule of Civil Procedure 41(b) for failure to prosecute.” (*Id.*)

That deadline has now passed, indeed the Court has waited several weeks beyond the deadline, and Mr. Wiley has not submitted the required confirmation or complaint. Accordingly, this Court now recommends that this action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a

plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.'').

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT** this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: June 20, 2023

s/ John F. Docherty

JOHN F. DOCHERTY

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).